

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

FREDERICK JEROME MORMAN,)	Case No. CV 16-1437-BRO (JPR)
)	
Petitioner,)	
)	ORDER ACCEPTING FINDINGS AND
v.)	RECOMMENDATIONS OF U.S.
)	MAGISTRATE JUDGE
DIRECTOR OF CORRECTIONS AND)	
REHABILITATION,)	
)	
Respondent.)	

Pursuant to 28 U.S.C. § 636, the Court has reviewed the Petition, records on file, and Report and Recommendation of U.S. Magistrate Judge. On February 16, 2017, Petitioner filed objections to the R. & R., in which he mostly argues that the Magistrate Judge and this Court are biased against him.¹ Although Petitioner does not directly address the Magistrate Judge's conclusion that the Petition is time barred, he does attach to the objections numerous records concerning his mental health. But as noted in the R. & R., during the relevant period Petitioner had the assistance of an inmate helper (R. & R. at 20-21), who continues to litigate the Petition for him (including by

¹ On February 28, 2017, the Court construed the objections to include a motion to disqualify both judges, and it was referred to the Honorable S. James Otero, U.S. District Judge, for decision. That same day, he denied the objections "to the extent premised on allegations . . . of bias." Thus, the Court does not address that aspect of the objections.

1 preparing and filing the objections (see Objs. at 1)). In any
 2 event, the newly submitted medical records show that Petitioner
 3 has at all relevant times had only mild mental-health issues: his
 4 GAF score has almost always been in the 60s² (see, e.g., Objs. at
 5 38 (GAF score of 65 in Sept. 2014), 65 (same in Dec. 2014), 92
 6 (62 in Sept. 2015), 84 (62 in Apr. 2016)); his thought processes
 7 have remained "logical" and "linear" and "relevant to the topic
 8 of discussion" (see, e.g., id. at 30, 38, 63, 66, 131, 155); and
 9 he has always been able to communicate effectively (see, e.g.,
 10 id. at 65, 69, 156). The medical records only confirm the
 11 Magistrate Judge's conclusion that he is not entitled to
 12 equitable tolling based on any mental-health issues. (See R. &
 13 R. at 19-21.)

14 Finally, Petitioner objects to what he contends are two
 15 factual mistakes made by the Magistrate Judge. First, he seems
 16 to insist that he filed his "Verified Accusation" "in March 2015
 17 [NOT] December 2, 2015 as the Magistrate Judge set out." (Objs.
 18 at 2.) But the proof of service for that document is signed and
 19 dated December 2, 2015, and the document itself refers to events
 20 that happened after March 2015. (See Lodged Doc. 8 at 2, 6-8.)³
 21 He also asserts that he "did not admit to not filing his own
 22 Notice of Appeal" (Objs. at 20), as the Magistrate Judge stated
 23

24 ² GAF scores of between 61 and 70 indicate "some mild
 25 symptoms (e.g., depressed mood and some insomnia) OR some
 26 difficulty in social, occupational, or school functioning . . .
 27 but generally functioning pretty well, has some meaningful
 interpersonal relationships." Diagnostic and Statistical Manual
of Mental Disorders 34 (revised 4th ed. 2000).

28 ³ For this document the Court uses the pagination provided
 by its Case Management/Electronic Case Filing system.

1 (see R. & R. at 3). But Petitioner's claims in the Petition rest
2 on his attorney's not filing a notice of appeal for him, which
3 would not have prejudiced him had he filed his own.

4 Because the Petition is time barred for the reasons stated
5 in the R. & R., IT IS ORDERED that it is denied, Respondent's
6 motion to dismiss is granted, and Judgment be entered dismissing
7 this action with prejudice.

8
9 DATED: March 9, 2017


10 BEVERLY REID O'CONNELL
11 U.S. DISTRICT JUDGE
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28